



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,741	12/20/1999	HONG H. JIANG	042390.P5700	6529

7590 05/12/2003

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025

EXAMINER

WU, JINGGE

ART UNIT	PAPER NUMBER
----------	--------------

2623

DATE MAILED: 05/12/2003

22

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/470,741

Applicant(s)

JIANG ET AL.

Examiner

Jingge Wu

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED filed on 4/21/2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-9, 11-21 and 23-34.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

JINGGEWU
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments with respect to claims 1-9, 11-21, 23-34 have been fully considered, but they are not persuasive.

Applicant argues that no prima facie cases of obviousness has been established because the motion vectors disclosed in Ng is different from those in Vetro. Furthermore, no motivation is found in both Vetro and Ng to combine them.

However, in response to applicant's argument, Examiner would like to point out that claim language is given its broadest reasonable interpretation. In the instant case, the motion vectors in Ng are codewords which identify 8x8 block of pixels as applicant pointed out, while the motion vectors in Vetro is also vectors (or codewords) used to specify the neighborhood of blocks (page 11, section 4.3). Thus, the motion vectors in Ng and Vetro have no significant difference (literally same) to prevent the combination the references because they are both motion vectors as claimed (in the claims only "motion vectors" claimed). Regarding to the motivation to combining the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In the instant case, first, both Vetro and Ng in the HDTV image processing field, especially low resolution motion compensation. Vetro clearly discloses a similar method and apparatus for low-resolution motion compensation. Although Yoshioka does not show that scaling a motion vector in according with a downsampling ratio, such processing techniques is taught by Ng (Fig. 5, col. 6 lines 1-7). Moreover, Ng uses the techniques to improve the image quality and reconstruction accuracy (Ng, Col. 6 lines 8-45), which is problem intended to be solved in Vetro (abstract). Finally, since the above mentioned limitations are contained in Vetro and Ng to show that knowledge which was within the level of ordinary skill at the time the claimed invention was made, and as can be seen from the rejection, it has taken in to account only knowledge which was within the level of ordinary skill, i.e. knowledge from the patents themselves. Therefore, such reconstruction is proper and prima facie case has been established.

Furthermore, Bose is also in the same field (HDTV image processing) as those of Vetro and Ng. Bose is cited to show that "the motion vector specifying relative distance of reference data from a macroblock" is well known in the art (col. 17, lines 4-25, note that Examiner made the assertion that the definition of motion vectors in MPEG is the horizontal and vertical displacement (distance) of the predicted macroblock and reference block. The Examiner insists that assertion is correct and that both Vetro and Ng used MPEG standard. Therefore, the claimed language should be inherent. Moreover, Bose clearly and expressly showed the feature as cited). The motivation to combine Bose is explicitly cited in Bose and Vetro (Bose, col. 3-col. 4, Vetro, abstract). So long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Finally, Examiner recognizes the test for obviousness is not whether the features of the reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the references make obvious to one of ordinary skill in the art. In *Re Bozek*, 163 USPQ 545, (CCPA 1969); In *re Richman* 165 USPQ 509, (CCPA 1970); In *re Beckum*, 169 USPQ 47 (CCPA 1971); In *re Sneed*, 710 F.2d 1544, 218 USPQ 385.

In the instant case, all claimed limitations are disclosed in the references. The guidance to combine the teachings is and has been always the objective standard, i.e., "produce the claimed subject matter but simply what the references make obvious to one of ordinary skill in the art.", rather than the Applicant's demand that "the features of the reference may be bodily incorporated into the other to produce the claimed subject."

According to the guidance, the references clearly show that all claimed limitations are well known in the art, the reproduction of the claimed subject matters from the references makes obvious to one of ordinary skill in the art because the motivations of combining them are presented in the references (see above).